



**Board of Corrections**  
**Minutes of September 1, 2010, Meeting**  
**10:00 a.m. to noon**  
**Located in: Board of Corrections**  
**Conference Room**  
**32 Blossom Lane, Augusta**



**Members Present:**

**Tom Brown**, Eaton Peabody (Public); **Chair Neale Duffett**, Cloutier, Conley & Duffett, P.A., (Public); **Irving Faunce**, Town of Wilton, (Maine Municipal Association); **Ric Hanley**, Spring Harbor Hospital (Mental Health); **Commissioner Anne Head**, Maine Department of Professional and Financial Regulation; **Commissioner Martin Magnusson**, Maine Department of Corrections; **Sheriff Scott Story**, Waldo County Sheriff's Office, (Maine Sheriffs)

**Members Absent:**

**Tim King**, Washington & Hancock County Community Action Program (Public) and **George Jabar**, Jabar, Batten & Ringer, (County Commissioners)

**Director of Pretrial, Diversion and Reentry:** **Laura Rodas**, Board of Corrections

**Fiscal Agent to the Board:** **Scott Ferguson**, Director of Corrections Service Center

**Executive Associate:** **Kelene Barrows**, Maine Department of Corrections

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**Handouts:**

- Agenda for 9/1/2010 meeting
- Minutes of 8/11/2010 meeting
- Action Item #10-023 – Protocol to review Supplemental Request of Funding in Excess of BOC Budgetary Appropriation.
- Action Item 10-025 - Amendment Addendum – FY12-13 Biennial Budget Growth Rate and Budget Request.
- Action Item #10-024 – Response to FY11 Curtailment
- Memo – Board of Corrections Cloture for 1<sup>st</sup> Regular Session, 125<sup>th</sup> Legislature (2010)

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**Welcome and Introductions:**

Chairman Duffett welcomed everyone and introductions of all Board members proceeded. It was noted the Board of Corrections meeting is being broadcasted live over the internet at:

<http://www.maine.gov/corrections/>.

Chairman Duffett welcomed a new member to the Board: Anne Head, Commissioner of the Maine Department of Professional and Financial Regulation. Her appointment to the Board was made by the Governor last week. She is a Governor's appointee and has already been sworn in as Commissioner. Ann Head (who replaced Martha Freeman) shared that she is happy to be on the Board. Commissioner Head's background is by training an attorney. She had been the Director of

the Office of Licensing and Registration for 13 years. Then, she took over as Commissioner for the department two years ago. She has experience with overseeing and administering 39 licensing programs within the Office of Licensing and Registration. One of the most important roles that she plays is to manage the finances of those 39 programs within an umbrella agency. She has spent a great deal of time putting together the financial tools that her staff needs to make sure each program is adequately funded through licensing. She is confident that she can be an asset to the Board as it faces many challenges in the near future.

Chairman Duffett noted that the Board had to call Sheriff Story back to active duty for this meeting (his term does not expire until September 3, 2010).

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### **Approval of Minutes:**

#### **Motion:**

- Irving Faunce made a motion to accept the August 11, 2010, minutes as presented; seconded by Tom Brown.

#### **Vote:**

- All were in favor; passed as unanimous.

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### **Report of the Chair:**

- **Cloture for 1<sup>st</sup> Regular Session, 125<sup>th</sup> Legislature (2010)**

The Chair handed out a communication from Kate Snyder that informed the Board of the initial draft of suggested legislation that had to be submitted to the Executive Branch by the deadline of August 5, 2010. The suggestions are drafts only and further work on actual language would be needed.

- **Mountain Top**

Chairman Duffett gave a speech about the mountain top. He went up there this past weekend and could still see across to the promised land off in the distance. He could still see the promised land of a unified system with standards, protocols, procedures and adequate funding. However, he **no longer** saw a clear path to get there, the way was obscured by a thick financial fog. The State is in the middle of a financial winter. We are going into a financial ice age that is going to start in January very intensely and is not going to end any time soon (it may be the “new normal”). After a meeting with the Commissioner of DAFS and others, the Chair said that getting new General Fund money for the FY12-FY13 Biennium will be extremely challenging and all Board members will have to be involved. The Chair shared two truths that he has learned about our situation:

- Every decision that is made is related to every other decision, not only at the Board level but also at the Corrections Working Group level, the Focus Groups level, the county level, and at the department level. All of the different players make decisions every day; every decision made in every area affects every other area.
- As we all make these decisions every day, we must first ask ourselves this question: will this decision **HELP** or **HURT** the Board's ability to get new millions of General Fund money in January 2011.

The Board was **NOT** established to make the easy and popular decisions and then go home; on the contrary, the Board has the responsibility and duty to take on the difficult issues and make decisions that, although not popular, are appropriate and just. The Legislature will demand that we engage in due diligence in all financial decisions; anything less jeopardizes **everything**. There may be many bills introduced to the Legislature that range from eliminating the Board to giving the Board more power and authority. However, whatever bills there may be, they won't be in time to change what we have a sworn responsibility to do in January 2011: advocate for an effective unified correctional system.

The next four months (September, October, November and December) may provide all stakeholders a window of opportunity to cooperate on ways to find that path forward once again.

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### **Board Action Item #10-024 – Response to FY11 Curtailment Target and FY11 Supplemental Budget**

The Board was directed back to an item that was tabled at the last meeting, which was the response to the curtailment letter that was originally received from Ellen Schneider. The original request for the curtailment was \$400,100 and was tabled because the Board felt that might go down and the Board had to draft a letter to Ellen Schneider to respond to this by today. It was noted, based on the meeting that Chairman Duffett had with Ms. Schneider it would **HELP** the Board's chance of getting millions of dollars in the Biennium to convey to Ms. Schneider the attached letter, which indicates that the Board is opposed to a curtailment because the Board has an investment fund unlike other agencies. The Board has an investment fund because everyone in this system has practiced prudent fiscal management. The Board is notifying Ms. Schneider that any curtailment out of the investment fund will adversely affect its mission. However, if there is to be a curtailment of \$92,023, this will come from the Board's reserve.

#### **Motion:**

- Irving Faunce made a motion to remove Action Item #10-024 from the Table; seconded by Commissioner Magnusson.

#### **Vote:**

- All were in favor; passed as unanimous.

#### **Motion:**

- Irving Faunce made a motion to amend Action Item #10-024 to the amount of \$92,023 and as part of that amendment the Board communicate with the Department of Administrative and Financial Services that any reduction would come from reserves for Board initiatives, which include third-party auditor services, joint medical contracting and uniform pre-trial practices; seconded by Ric Hanley.

#### **Discussion:**

- The sense of the Board is to amend Action Item #10-024 to change the numbers as indicated and to amend the letter to the Commissioner indicating that the Board will achieve this reduction by eliminating some portion of the three major initiatives. It was also noted that there will future stakeholder participation in this decision-making process.
- It was suggested in the 4<sup>th</sup> paragraph to read "if required".
- It was noted when the Fiscal Agent submits to DAFS, he will be submitting a curtailment of \$92,023.

- It was noted it doesn't necessarily mean that the money is gone forever.

**Vote:**

- All were in favor; passed as unanimous

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**Board Action Item #10-025 FY 12-13 Biennial Budget Growth Rate and Budget Request**

Please see: <http://www.maine.gov/corrections/BOC/refs/BOCFY11throughFY13FundingAnalysis.pdf>

On August 11, 2010, the Board passed Action Item #10-025, which is the Biennial budget request that is due today. After the Board voted on this, the Corrections Working Group (CWG) discovered that an error had been made. The CWG was refining the numbers and found a double count of some revenue.

Today, the CWG puts forward to the Board a proposal to adhere to the original growth rate of 2% and 1.5% in FY 12 & 13 and thus recalculate the FY12-FY13 General Fund request upward. To not act today would be inappropriate because our August 11, 2010 request would be too low.

Sheriff Story noted that not acting today would leave the Board with a worse problem. He would go ahead and support the amendment but we still should not be picking a number and then trying to back the budgets into it.

The CWG indicated that the "ask" for the Biennial would be within a certain range of amounts based on our expenditures in FY11; however, the CWG recommended that the Board request General Fund amounts at the high end of the ranges (see fiscal summary chart).

**Motion:**

- Irving Faunce made a motion to approve the Amendment Addendum and the amended Action Item #10-025 at the high ends of the ranges: \$4,079,951 in FY12 and \$5,558,184 in FY13; seconded by Commissioner Magnusson.

**Vote:**

- All were in favor; passed as unanimous

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**Action Item #10-023 Protocol to Review Supplemental Request of Funding in Excess of BOC Budgetary Authorization**

**Motion:**

- Irving Faunce made a motion to remove Action Item #10-023 from the Table; seconded by Ric Hanley.

**Vote:**

- All were in favor; passed as unanimous.

**Discussion:**

- It was noted that Action Item #10-023 had been sent out to stakeholders for comment. There were a couple of comments that came back:

1. Androscoggin: "the forms are acceptable as presented."
2. Aroostook:

"Thanks for floating this by us. I can live with the protocol, provided that balanced representation (state vs. county) is present when a particular county's request is being evaluated. I'd also like to ensure that the requesting parties have the option of having their "day in court" with each entity. That is, a county should have the option of presenting their case to the BPG, CWG and BOC, so that there are "checks and balances" built into the system along the way. I would hate to see a protocol that would allow the BPG to say "no" to a request and that is the end of it."

- In response to Aroostook's concerns, the bottom lines on page one of the form have been changed.
- Irving Faunce had concerns about the RFP and bid language in the middle of page one of the forms.
- It was proposed that the Budget Focus Group continue to work on the form to address the issues raised by Irv Faunce.
- Board members were asked to submit any additional comments of their own to the Budget Focus Group.
- It was suggested for the Budget Focus Group to put time certain parameters on the form.

**Motion:**

- Irving Faunce made a motion to return Action Item #10-023 to the Table and wait for the Budget Focus Group to come back with revisions; seconded by Tom Brown.

**Vote:**

- All were in favor; passed as unanimous.

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**Public Comment:**

- It was noted some Board members have been invited to a meeting with Justice Silver to discuss some Penobscot issues on September 21, 2010, at 2:00 p.m. at the Judicial Center in Bangor.
- It was noted that there is LSI-R training on September 13-17 (best days for Board members to attend are 9/14 and 9/16).
- It was noted that on September 21, 2010, the Southern Maine Reentry will have a "meet and greet" in Portland at the Adult Probation office at 10:00 a.m. (will bring southern stakeholders together around reentry issues).
- It was noted that Penobscot County's FY11 Supplemental Request is being evaluated by the CWG.

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**Meeting Adjourned:**

**Motion:**

- There was a motion made by Irving Faunce to adjourn the meeting; seconded by Sheriff Story.

**Vote:**

- All were in favor; passed as unanimous.
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**Other Issues or Topics:**

- It was noted that the Board will be getting a summary from the 7/14 retreat.
  - A suggestion to look at the per diem costs within each of the facilities statewide.
  - It was suggested to look at how to manage federal inmates in the future.
  - It was noted to keep in mind for FY11 to develop a unified chart of accounts.
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**Future Workshops & Meetings (subject to change):**

- Wednesday, September 29, 2010 – Meeting at **10:00 a.m.**
  - Wednesday, October 13, 2010 – Meeting at 1:00 p.m.
  - Wednesday, November 17, 2010 – Meeting at 1:00 p.m.
  - Wednesday, December 15, 2010 – Meeting at 1:00 p.m.
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**Respectfully submitted by Kelene Barrows**